

Serial No.: 10/027,798  
Response dated 30 September 2004  
Reply to Office Action mailed 30 June 2004

Docket No.: KCC-16,452

### **REMARKS**

This Patent Application has been reconsidered carefully in light of the Office Action mailed on 30 June 2004. A careful reconsideration of the application by the Examiner in light of the following remarks is respectfully requested.

#### **Request for Telephone Interview**

Applicants' undersigned attorney requests a telephone interview with the Examiner to discuss the merits of this Patent Application. The undersigned requests this interview if the arguments are not deemed sufficient to place this Patent Application in condition for allowance. If the Examiner feels the claims are not allowable for any reason, then please telephone the undersigned, Eric T. Krischke, at (847) 490-1400.

#### **Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1-59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,191,340 to Carlucci et al. (hereinafter "Carlucci et al."). This rejection is respectfully traversed, particularly in view of the following remarks.

Applicants' claimed invention is directed to a pant-like disposable absorbent article, such as a single insult training pant for use as a motivation training aid for toilet training a child whereby the child experiences the consequence of the

swelling of the absorbent core upon insult. Upon insult, the swellable absorbent core 44, at least in the area or zone of insult, absorbs the insult and swells to a final wet thickness ( $t_f$ ) desirably at least about three times greater than the initial dry thickness, more desirably at least about five times greater than the initial dry thickness. The increased thickness makes the training pant 20 look and feel more like a diaper to the wearer and encourages the wearer to replace the garment with a dry training pant 20, as well as encourage training.

Each of independent Claims 1, 21 and 46 claim an absorbent article including: (a) a swellable absorbent core positioned between the outer cover and the body side liner having an initial thickness, and swellable to a final thickness at least about three times greater than the initial thickness; and (b) an overall absorbent capacity of about 300 g or less.

At paragraph 3 of the Office Action, the Examiner alleges that Carlucci et al. discloses “a swellable absorbent core 28 positioned between the outer cover and the body side liner having an initial thickness ( $t_i$ ), the absorbent core swellable to a final thickness ( $t_f$ ),  $t_f \geq 3t_i$ , (Figures 2 and 3).” However, Carlucci et al. does not disclose in the specification an absorbent core that is swellable to a final thickness at least three times greater than its initial thickness, as required by Applicants’ claimed invention. Nor is this limitation disclosed in Figs. 2 and 3 of Carlucci et al.

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Further, the Examiner acknowledges that Carlucci et al. does not teach a disposable absorbent article having an overall absorbent capacity of about 300 grams or less, as required by Applicants' claimed invention. However, the Examiner contends that "Carlucci recognizes that the absorbent capacity of the absorbent article can be varied for the intended use of the article. For example, Carlucci discloses a different absorbent capacity for day time use as compared with those intended for night time use, or a different absorbent capacity depending on the age of the user (Col. 5, lines 10-22)." Thus, the Examiner concludes that one having ordinary skill in the art would be able to determine through routine experimentation the ideal levels of absorbent capacity for a particular application.

Carlucci et al. discloses a sanitary napkin including an absorbent core 28 having a substantially non-expanding absorbent element 44 and an expanding layer 46 constituted by smaller elements 50 of compressed regenerated cellulose sponge. The smaller elements 50 are decoupled, and distinct from one another. Upon activation by body fluid, e.g., absorption of body fluids, each smaller element expands.

Carlucci et al. teaches the sanitary napkin should have the capability of a rapid acquisition and transmission of body fluids, particularly when viscous fluids like menses are to be managed. See Col. 2, line 59 through Col. 3, line 2. Carlucci

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et al. also discloses that the absorbent capacity of the absorbent core should be compatible with the intended body fluid loading for the sanitary napkin. Further, the overall absorbent capacity of the absorbent core may be varied to accommodate wearers ranging in the expected amount of body fluid volume. For instance, a different absorbent capacity may be utilized for sanitary napkins intended for day time use, or for sanitary napkins intended for use by teenage females, as compared with those intended by more mature women. See Carlucci et al., Col. 5, lines 12-21.

Carlucci et al. does not teach or suggest an absorbent article having an overall absorbent capacity of about 300 g or less, such as a single insult training pant for use as a motivation training aid for toilet training a child, whereby the child experiences the consequence of the swelling of the absorbent core upon insult. In fact, Carlucci et al. teaches away from Applicants' present invention by disclosing an absorbent core that quickly acquires and transmits menses away from the wearer's skin to provide a dry-feeling contact with the body surfaces and prevent the fluids from escaping and soiling the wearer's garment.

Carlucci et al. provides no motivation to one skilled in the art for the proposed inclusion of an absorbent core that is swellable to a final thickness at least about three times greater than an initial thickness, in an absorbent article having an overall absorbent capacity of about 300 grams or less, to motivate a child during toilet

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training, whereby the child experiences the consequence of the swelling of the absorbent core upon insult, and the Examiner has pointed to no suggestion anywhere in the art.

In the Office Action mailed 30 June 2004, the Examiner alleges that “Carlucci recognizes that the absorbent capacity of the absorbent article can be varied for the intended use of the article. For example, Carlucci discloses a different absorbent capacity for day time use as compared with those intended for night time use, or a different absorbent capacity depending on the age of the user (Col. 5, lines 10-22).” The Examiner concludes that one having ordinary skill in the art would be able to determine through routine experimentation the ideal levels of absorbent capacity for a particular application. However, this purported motivation would not lead an ordinary person skilled in the art to arrive at Applicants’ claimed invention.

Applicants are not seeking to provide a sanitary napkin having the capability of a rapid acquisition and transmission of viscous body fluids like menses for fluid management. Instead, as explained above, Applicants seek to overcome the problems associated with conventional toilet training garments that are generally so effective in absorbing insults, i.e., urine, that the child does not know he or she is wearing a wet garment. The present invention overcomes these problems by providing a single insult disposable training pant that is capable of absorbing only one

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urination, whereby the child wearing the training pant feels and is aware that the training pant is wet or feels different after urination, to motivate a child to complete the toilet training process.

Applicants respectfully submit that Carlucci et al. does not render Applicants' claimed invention obvious in the manner required by 35 U.S.C. §103. Thus, Applicants respectfully request withdrawal of this rejection.

#### **Conclusion**

It is believed that the above Response places all pending claims in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned, preferably by telephone, in an effort to expedite examination of this Patent Application.

Respectfully submitted,



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